

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

BELTON BROOKS, )  
                      )  
Plaintiff,         )                  4:06cv3123  
                      )  
vs.                 )                  MEMORANDUM AND ORDER  
                      )  
WARNER-WELLCOME, now known as )  
WARNER-LAMBERT COMPANY, LLC, )  
                      )  
Defendant.         )

This matter is before the court on filing no. 8, the defendant's Motion to Dismiss. In filing no. 12, I gave the plaintiff, Belton Brooks, until August 18, 2006 to respond to the Motion to Dismiss, and I stated that in the absence of a timely and sufficient response, the defendant's Motion would be granted. The plaintiff is a state prisoner, convicted of a crime involving methamphetamine, who sought damages from the defendant on theories of product liability, failure to warn and negligence. Because of the plaintiff's methamphetamine addiction, the plaintiff had a history of extracting and ingesting an ingredient in the defendant's cold remedy product, Sudafed.

After removing the action to this court, the defendant moved to dismiss the complaint on the grounds that the complaint fails to state a claim upon which relief may be granted; that the claims are barred by the applicable statute of limitations; and that to shift the responsibility to the defendant for the plaintiff's criminal conduct would violate public policy. I found those arguments reasonable but wished to give the plaintiff an opportunity to respond to the motion. The plaintiff has not responded to filing nos. 8 or 12. Therefore, filing no. 8 is granted, and judgment will be entered accordingly.

SO ORDERED.

October 2, 2006.

BY THE COURT:

s/ *Richard G. Kopf*  
United States District Judge